

Table of Contents

Opinion

EMMA TEICHMANN

Why One Person's Inclusion Rider is Another's Exclusion Rider 201

When Frances McDormand, winner of this year's Oscar for Best Actress, ended her speech with two words, "inclusion rider", she left behind her a trail of Google searches and #inclusionrider hashtags. Now the Labour Party is calling for HMRC to employ them as a way of increasing diversity in the UK film industry. But is the inclusion rider even legal here in the UK? Probably not.

Articles

ROHAN MASSEY

GDPR Consent—UK's ICO Guidance Re-Delivers the Message that "consent is not the silver bullet for GDPR compliance" 203

This article considers the detailed guidance published by the Information Commissioner's Office on the concept of consent under the General Data Protection Regulation focusing in particular on when consent is the appropriate lawful basis for processing personal data, how to obtain valid consents and once obtained, how to manage them.

MARCUS AYODEJI ARAROMI

Freedom of Expression and Legal Control of Hate Speech on Social Media in Nigeria 207

Freedom of speech is a recognised human right that has found expression in both in the national laws and international instruments. With the nascent introduction of the internet, ability to communicate and share ideas has assumed a very explosive dimension. There have been attempts in different places to censor the internet medium for the purpose of controlling untamed expressions which may be injurious to others. Nigeria is also not left out in this campaign. Nigeria's approach to this will be reviewed in this paper.

NICOLA CAIN AND RUPERT COWPER-COLES

GDPR and the Data Protection Act 2018—How Do They Impact Publishers? 213

The need for publishers to ensure that their processing of personal data complies with the law is more important than ever. This article considers the changes that traditional media publishers, online platforms and journalists face under the new Data Protection 2018 Act.

CHRISTOPHER WENN

Can Data Protection Solve the Problem of Microtargeting, Manipulation of Internet Users and Fake News? 216

This article reviews the recommendations made by the European Data Protection Supervisor for co-ordinated regulatory action and robust enforcement of data protection to combat the problem of microtargeting, manipulation of internet users and fake news.

Comments

MICHELLE SLOANE

Anderson v HMRC—on Football Agent's Appeal Upper Tribunal Considers Knowledge Test for the Purpose of Discovery Assessments 219

This case comment considers the Upper Tribunal case of *Anderson v HMRC*, whereby the Upper Tribunal (UT) dismissed a football agent's appeal upholding the First-tier Tribunal's (FTT) decision to disallow relief for losses incurred in relation to a football academy ran by the agent. The UT also considered the knowledge test to be applied for the purposes of a valid discovery and agreed with the FTT that HMRC had issued a valid discovery assessment.

JODI BENASSI

Blurred Lines Songwriters Have Got to Give It Up for the Gaye Family 220

This article reviews the decision of the US Court of Appeals for the Ninth Circuit in *Williams v Gaye*, affirming in part and reversing in part a district court's judgment after a jury trial, ruling that the song Blurred Lines infringed Marvin Gaye's 1970s song *Got To Give It Up*.

PETER SMITH

Miah v BBC—Details of an Investigation Insufficient Basis for Defence of Truth to Libel Allegations 222

This article considers Warby J's decision in *Miah v BBC* allowing an application by a doctor, who was the subject of a report on a fraud investigation conducted by the NHS that was broadcast on BBC's Look North, to strike out parts of the BBC's defence of truth to a claim for libel.

RACHEL ALEXANDER AND OLIVIA
BROWN

Costs of Blocking Injunctions: Cartier v BT 224

On 13 June 2018, the UK Supreme Court handed down its judgment in *Cartier v BT*, holding that brand owners must indemnify Internet service providers for their marginal costs of complying with Internet blocking orders. However, ISPs cannot recover the substantial costs incurred by them in acquiring and upgrading their blocking systems.

STUART HARRIS

FA Suspends Lincoln City Footballer for Six Years After Breaching Integrity and Betting Rules 226

The FA has banned former Lincoln City defender Bradley Wood from all football activity for six years for match fixing and betting offences. In a decision handed down on 18 April 2018, the FA found Mr Wood guilty of 25 breaches of its Match Integrity and Betting Rules for intentionally receiving yellow cards in two consecutive FA cup matches in 2017.

MATTHEW GILL

One of these Things is not like the Others: the ECtHR Balances the Rights of Privacy and Freedom of Expression 228

This article reports the ruling of the European Court of Human Rights in *Alpha Doryforiki Tileorasi Anonymi Etairia v Greece* that Greek authorities had infringed a broadcaster's right to freedom of expression by sanctioning the broadcast of a secretly filmed video of a politician entering a gambling arcade, but that the Greek authorities' interference with the broadcaster's right to free speech was justified in respect of two further videos which were secretly filmed in private spaces.

EMMA FLETT AND JOHN PATTEN

CJEU Brings AG Szpunar to Heel in Finding Louboutin Registration to be Valid 231

On 12 June 2018, the CJEU gave judgment on the classification and potential validity of Louboutin's "red sole" EU trade mark registration. In its judgment, the CJEU unexpectedly ruled contrary to the two previous AG opinions and found that Louboutin's registration is not for a shape mark and therefore is not prohibited from registration. The judgment comes after years of litigation between Louboutin and Dutch footwear company Van Haren, in which Louboutin claims that Van Haren's footwear collection infringes its "red sole" mark, and Van Haren challenged the validity of Louboutin's mark.

HUGH TOMLINSON QC AND AIDAN
WILLS

ML and WW v Germany—Article 8 Right to be Forgotten and the Media 232

This article reviews the decision of the Fifth Section of the Court of Human Rights in *ML and WW v Germany* dismissing an Article 8 "right to be forgotten" application in respect of the historic publication by the media of information concerning a murder conviction.